United Nations S/AC.44/2004/(02)/105

Security Council

Distr.: General
1 March 2005

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 28 February 2005 from the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Islamic Republic of Iran to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to enclose herewith the report of the Islamic Republic of Iran on the implementation of Security Council resolution 1540 (2004) (see annex).

05-25540 (E) 180305

Annex to the note verbale dated 28 February 2005 from the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Chairman of the Committee

Report of the Islamic Republic of Iran to the Security Council Committee established pursuant to resolution 1540 (2004) on the implementation of Security Council resolution 1540 (2004)

The continued existence and development of weapons of mass destruction (WMD), the possibility of use or threat of use of WMD and the prospect of non-state actors acquiring such weapons are all the more threatening the whole international community.

The Islamic Republic of Iran considers acquiring, developing, and using WMD as inhumane, immoral, illegal, and against its very basic principles. The Islamic Republic of Iran, as a State Party to all international instruments banning WMD, believes that the most effective way of preventing non-state actors from acquiring WMD is through the total elimination of such weapons.

While the adoption of Security Council resolution 1540 is considered as a practical short-term step aimed at filling the gap in the existing non-proliferation regimes, a number of serious and valid questions arise as to whether the content of the resolution fairly and adequately has addressed the concerns of all member States. The Islamic Republic of Iran raised some of these concerns before the meeting of the Security Council on 22 April 2004.

The Islamic Republic of Iran believes that the operative paragraph 5 of resolution 1540 contains the pivotal provisions for the interpretation and implementation of the resolution. We are of the strong view that provisions of the resolution should not be interpreted or implemented in a manner that conflict with or alter the rights and obligations enshrined in the internationally negotiated instruments such as the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC), and the Biological and Toxin Weapons Convention (BTWC) as well as the Statute of International Atomic Energy Agency (IAEA).

In this context, the Islamic Republic of Iran strongly believes that non-proliferation and disarmament are mutually reinforcing. The efforts directed towards non-proliferation should be paralleled by simultaneous efforts aimed at disarmament. The strengthening of these two concepts together would serve well in securing a world that is free from weapons of mass destruction. Attaining the universality of non-proliferation and disarmament treaties, in particular NPT, is a must in this regard.

The Islamic Republic of Iran also views that any emphasis on the concept of non–proliferation should not divert the attention of the Member States from the nuclear disarmament as the highest priority of the international community.

Taking into account "the Guidelines for the preparation of national report" provided by the 1540 Committee, the Islamic Republic of Iran submits its report on measures taken to implement the resolution, as follows:

Operative paragraph 1: *All States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer, or use nuclear, chemical, or biological weapons and their means of delivery;*

1. As a State Party to all international instruments banning WMD, namely NPT, CWC, BTWC and the 1925 Geneva Protocol and based on its principled positions and contractual commitments, the Islamic Republic of Iran, even before the adoption of this resolution, has refrained and continues to refrain from providing any form of support to other states and non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operative paragraph 2: *all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;*

2. According to the legal system of the Islamic Republic of Iran, international conventions and treaties that are ratified by the Parliament become part of national law of the country and are therefore binding on all Iranian citizens and residents, as well as those under the jurisdiction of the State. The most important international treaties and agreements that, in this regard, are applicable in the Islamic Republic of Iran are as follows:

i) The Non Proliferation Treaty (NPT), signed in 1969 and ratified by the Parliament in 1970;

ii) The Convention on the Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction (BTWC), signed in 1972 and ratified in 1973;

iii) The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) signed in 1993 and ratified in 1997.

iv) The Statute of the International Atomic Energy Agency(IAEA), ratified in 1958;

v) The IAEA Safeguards Agreement, ratified in 1973;

vi) The Convention for the Safety of Life at Sea (SOLAS) ratified on 16 May 1994. Pursuant to the ratification of the Convention, its international codes including International Ship and Port Facility Security Code (ISPS Code) adopted on 1 July 2004 and International Maritime Dangerous Goods Code (IMDG Code) are implemented in the Islamic Republic of Iran.

3. The Islamic Republic of Iran has also enacted a set of relevant national laws and regulations banning and punishing the smuggling and illicit trafficking of any kind of weapons and ammunitions. In practice, these laws and regulations effectively prevent non-State actors to develop, acquire, manufacture, possess, transport, transfer or use such weapons.

The relevant laws and regulations, which are effectively in force, are as follows:

i) The "Law on Enhancing Penalties for the Smuggling of Weapons and Ammunition and Armed Smugglers" adopted in 1971, which accordingly banned any form of production, acquisition, maintaining, purchasing, transferring, and concealment of explosive material, ammunition and weapons;

ii) The "Law of Custom Affairs" adopted in 1971 by which import of any weapons, ammunition and explosive materials by non-State actors are banned;

iii) The "Law on Punishment of Weapon Smuggling" adopted in 1974 which banned importing, exporting, purchasing, trafficking, concealing and maintaining illegal weapons.

iv) Article 688 of the "Islamic Penal Code" adopted in 1997, on polluting environment by chemical, biological and physical material, that could be harmful to the human and living species;

Operative paragraph 3: *all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:*

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

4. The following laws, regulations, and procedures on safety and security of nuclear, chemical and biological materials, have been adopted and are applicable in the Islamic Republic of Iran:

i) The Law of the Establishment of Atomic Energy Organization of Iran (AEOI), adopted in 1974. According to this Law, the AEOI is responsible for preparing and adopting the regulations in relation to the protection against nuclear radiation and determine the methods of their supervision, as well as issuing the permission for setting up nuclear facilities in the country, in accordance with the safety and security rules and standards for such facilities;

ii) The Law on the Protection against Radiation, adopted in 1988;

iii) The Regulation on the Protection against Radiation, adopted by the Council of Ministers in 1990;

iv) The Regulation on the Protection against Ionizing Rays adopted in 1973;

v) The Guidelines on Early Warning, Epidemic Preparedness and Outbreak Responses based on the World Health Organization's related guidelines approved by the Ministry of Health and Medical Education in June 2002;

Operative paragraph 3 *(b) Develop and maintain appropriate effective physical protection measures;*

5. All related materials and facilities are under effective protection of the relevant governmental bodies. For the purpose of the physical protection, there are existing regulations such as:

i) Formation of the Protection Guard of the Nuclear Energy Industries, Facilities, Properties and Documents of Atomic Energy Organization of Iran, adopted by the Council of Ministers in 1975;

ii) The Law on the Punishment of Saboteurs, adopted in 1975;

Operative paragraph 3 *(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;*

6. The relevant measures for border controls in the Islamic Republic of Iran are as follows:

i) According to the Customs Law, adopted in 1971, the Customs Administration is the responsible body to monitor and control import and export of all materials, equipment and goods through borders which are subject to monitoring in accordance with existing laws, regulations and procedures;

ii) In order to prevent illicit import-export, the law enforcement authorities of the Islamic Republic of Iran are responsible for combating illicit trafficking and control of the State's borders, as well as implementing the border protocols and agreements.

Operative paragraph 3 *(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;*

7. The relevant regulations to control transition and transportation of goods in the Islamic Republic of Iran are as follows:

i) The Regulation on the Trafficking and Transition of Goods through the Territory of the Islamic Republic of Iran, adopted by the Council of Ministers in 1998. According to this Regulation, the transit of chemical, biological and nuclear material is subject to observance of the legal regulations as well as obtaining the required permissions from relevant authorities;

ii) The Regulation on the Road Transportation of Dangerous Materials, adopted in 2002, according to which the road transportation of chemical, biological, and nuclear materials and equipment that are harmful and hazardous for human and animal health, as well as the environment, is subject to observance of specific legal regulations;

Operative paragraph 6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

8. Based on the international instruments to which the Islamic Republic of Iran is a party as well as its own national regulations, there exist necessary national control lists, including:

i) The Islamic Republic of Iran's Customs Administration implements the state laws and regulations on export-import in accordance with the Export-Import Regulations Code and its annexed tariff table. This Code is regularly updated in light of the International Convention on the Harmonized Commodity Description and Coding System (HS), codified by the World Customs Organization;

ii) The Customs Administration is a member of the World Customs Organization (WCO) and has been implementing the WCO's Convention on the Harmonized Commodity Description and Coding System (HS), since 25 September 1993. The Customs Administration also implements the ratified document of the WCO, no. L13 dated 29/5/2005, on the list of "banned chemical materials" or "chemical materials subject to special regulations";

iii) The Customs Administration, in accordance with the 1990 Regulation on the Protection Against Radiation, and the latest procedures concerning sensitive radioactive materials and equipments, has established specific tariffs for such items in coordination with Atomic Energy Organization of Iran, and monitors and controls the import–export process of such materials and equipments, and prevents their illegal import–export;

iv) The Islamic Republic of Iran, in accordance with the 1993 Law of the Import-Export and the approved rules of procedure of 21 April 1994 for import-export of chemicals named in the Chemical Weapons Convention, has created 11 digit tariff codes to which Iran's Customs Administration is responsible for implementing;

v) Following the ratification of Chemical Weapons Convention by the Parliament on 27 July 1997, its focal point (National Authority) was established in the Islamic Republic of Iran, with its Secretariat in the Ministry of Foreign Affairs. The Secretariat issues import-export licenses for chemicals in accordance with the Convention and domestic laws and regulations as well;

Operative paragraph 6. States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

9. As mentioned, several laws and regulations concerning import-export control are in force in the Islamic Republic of Iran. The Islamic Republic of Iran makes every effort to exercise effective controls over materials and equipments covered by this resolution.

However, due to its long sea and land borders and given the huge amount of financial and human resources required for the implementation of the resolution, the Islamic Republic of Iran welcomes assistance in form of expertise, technical, and financial resources. Specific requests, if deemed necessary, will be announced in the future.

Operative paragraph 8: *all States:*

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

10. The Islamic Republic of Iran, as a State party to the NPT, BTWC, and CWC, as well as the 1925 Geneva Protocol, continues to support the universality of these international instruments in different fora, including the NPT Review Conferences and the Conferences of States Parties to the CWC and BTWC.

Operative paragraph 8. *(b) To adopt national rules and regulations, where it has not yet been done to ensure compliance with their commitments under the key multilateral nonproliferation treaties;*

11. As it is mentioned in paragraph 2, according to the legal system of the Islamic Republic of Iran, international conventions and treaties which are ratified by the Parliament become part of national law and, therefore, adopting additional legislation is not deemed necessary in this regard. However, due to the complexity of implementation of some international obligations, a number of new initiatives has been undertaken:

i) In order to facilitate implementation of the CWC, the bill of "The Law of National Implementation of the CWC" was presented to the Parliament for adoption in 2004. According to article 17 of the bill, possessing, acquiring, producing, developing, transferring, stockpiling, maintaining, using or threatening to use chemical weapons or collaboration in committing these acts constitute crimes, and perpetrators will be punished in accordance with the relevant regulations of the Islamic Penal Code;

ii) A bill to combat terrorism was approved by the Council of Ministers on 18 November 2003 and sent to the Parliament for adoption in order to become law. In accordance with the bill, production, possession, acquiring, stealing, deceptive acquisition, illicit trafficking, transportation, stockpiling, and development of nuclear, chemical and biological materials that have no justification for prophylactic, protective or any other peaceful purposes, constitute terrorist crimes.

Operative paragraph 8. *(c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;*

12. The Islamic Republic of Iran is a party to the NPT, BTWC and CWC as well as the 1925 Geneva Protocol, and has signed the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

Likewise, it is a member-state of the International Atomic Energy Agency (IAEA) and has ratified the Comprehensive Safeguards Agreement in 1974. It has also signed and has been voluntarily implementing the provisions of the Additional Protocol to the Safeguards Agreement since 18 December 2003. The Islamic Republic of Iran continues to honor all its commitments under the international instruments to which it is a State Party.

The Islamic Republic of Iran, as a Member of Non-Aligned Movement (NAM) has actively participated in multilateral mechanisms for strengthening and enhancing all the commitments contained in the NPT, CWC and BTWC.

The Islamic Republic of Iran has had an effective and constructive participation in the international meetings and conferences including the review conferences of these treaties. Likewise, it has a continuous and constructive relationship with the IAEA, Preparatory Commission of the CTBT, and the Technical

Secretariat of the OPCW, as well as the national focal points of State Parties to the CWC. The Islamic Republic of Iran continues to fully support these organizations.

In this context, based on the bitter but valuable experiences of Iranian physicians who treated Iranian injuries of Iraqi chemical attacks during the eight-year imposed war and with the help of Technical Secretariat of OPCW, various training courses have been organized on medical treatment of chemical injuries in Iran.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

13. In accordance with the obligations under the CWC and with the cooperation of the OPCW, various seminars were also held by the National Authority of Iran for the industry owners and government officials who deal with the implementation of Chemical Weapons Convention. The major goal of these seminars was to improve and update the knowledge of participants about their obligations under the Convention and inform them of the latest developments with regard to the implementation of the Convention.

Operative paragraph 9. *all States to promote dialogue and cooperation on nonproliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;*

14. Iran was the first country in the Middle East region to initiate the idea of establishing a Nuclear-Weapon-Free Zone (NWFZ) as an important disarmament measure in 1974, which was followed by the resolution of the United Nations General Assembly. Since 1980, the General Assembly of the United Nations has annually adopted, by consensus, a resolution on this issue. Iran continues to support and promote this initiative.

Operative paragraph 10: *all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;*

15. In our view, cooperation among all member States is a key element to prevent illicit trafficking in WMD. Nonetheless, the implementation of paragraph 10 of the resolution should be strictly in conformity with the well-established and universally-recognized principles of international law, in particular "the freedom of navigation on the high seas," and "the right of innocent passage". Likewise, every national legislation or order in this regard should be fully compatible with these recognized principles.